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11 ST. PAUL FIRE AND MARINE
12 INSURANCE COMPANY

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 INFOR GLOBAL SOLUTIONS
17 (MICHIGAN), INC., a Michigan
18 corporation,

19 Plaintiff,

20 v.

21 ST. PAUL FIRE AND MARINE
22 INSURANCE COMPANY, a Minnesota
23 corporation,

24 Defendant.

CASE NO. C08 02621 JW

**DEFENDANT ST. PAUL FIRE AND
MARINE INSURANCE COMPANY'S
ADMINISTRATIVE REQUEST FOR
BRIEFING SCHEDULE AND
OPPORTUNITY TO BE HEARD IN
OPPOSITION TO PLAINTIFF INFOR'S
EX PARTE APPLICATION FOR STAY**

Place: Courtroom 5, 4th floor

Before: The Hon. Patricia Trumbull

25 Defendant St. Paul Fire and Marine Insurance Company hereby requests that a briefing
26 schedule and opportunity to be heard be provided with respect to plaintiff's *ex parte* application
27 for a stay of depositions. (Docket entry no. 73.)

1 The present discovery cutoff is April 15, 2009.¹ Plaintiff Infor Global Solutions
 2 (Michigan), Inc. (“Infor”) has refused to agree to an extension of that cutoff, confirming on
 3 March 3, 2009, that it is unwilling to extend the time for completion of discovery.² In the
 4 meantime, on March 4, 2009, Infor filed a motion to quash fifteen subpoenas for deposition
 5 served by St. Paul, or for a protective order, (Docket entry no. 67), noticing that motion for
 6 hearing on April 7, 2009. These fifteen depositions are of individuals identified by Infor itself as
 7 individuals with knowledge of Infor’s alleged damages.

8 Shortly after it refused to extend the time for discovery, Infor moved *ex parte* to stay all
 9 depositions noticed for dates between March 18 and April 8 until after its motion to quash the
 10 subpoenas for those depositions can be heard on April 7, 2009. (Docket entry no. 73.) In other
 11 words, Infor seeks to deprive St. Paul of the right to take depositions during three of the last four
 12 weeks of the already-abbreviated discovery period, while at the same time insisting that the
 13 discovery period not be extended.

14 These tactics are indefensible, particularly given the stakes. In this case, Infor seeks to
 15 recover damages from St. Paul in the amount of \$4,147,807.19 plus interest.³ What is at issue is
 16 St. Paul’s Constitutional right to adequately defend itself in a case in which Infor seeks millions of
 17 dollars. If Infor’s *ex parte* request is granted, that will leave only five business days to complete
 18 critical deposition discovery – testimony without which St. Paul cannot adequately defend against
 19 Infor’s inflated claims – in a case involving claims of millions of dollars.

20 Infor is trying to have a motion seeking substantive relief heard *ex parte*. Infor has not
 21 shown good cause for *ex parte* relief. The notices for the depositions Infor seeks to now stay
 22 were served on or about February 19, 2009. Infor made no objection to the deposition notices
 23 until mere hours before filing its motion to quash the deposition subpoenas. Even then, Infor did
 24 not announce that it intended to seek a stay, instead, tactically postponing its effort to stay the

25 ¹ Order Vacating Case Management Conference, filed January 7, 2009. (Docket entry no.
 26 59.)

27 ² This forced St. Paul to file a motion to modify Judge Ware’s Order Vacating Case
 Management Conference, so as to extend the discovery deadline previously set by Judge
 Ware. (Docket entry no.65)

28 ³ Infor’s CMC statement, filed January 5, 2009. (Docket entry no. 56.)

1 depositions and then filing that request on an *ex parte* basis, so as to deprive St. Paul of an
2 opportunity to meaningfully oppose the request for a stay.

3 St. Paul asks the court to set a briefing schedule and a hearing concerning Infor's request
4 for a stay. If the court sets such a briefing schedule, St. Paul will be able to file its substantive
5 brief and evidence, and the matter can be scheduled for a hearing.

6 DATED: March 6, 2009

Respectfully submitted,

7 SEDGWICK, DETERT, MORAN & ARNOLD LLP
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9 By: _____/s/

10 Sigrid Irías

11 Attorneys for Defendant

12 ST. PAUL FIRE AND MARINE INSURANCE
13 COMPANY
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